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Officer Involved Shooting of William Bowers

Los Angeles County Sheriff's Department

Deputy Jeffrey Brito, #461058

J.S.I.D. File #16-0386



JACKIE LACEY

District Attorney

Justice System Integrity Division

June 6, 2019

MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of William Bowers
J.S.I.D. File #16-0386
LASD File #016-10281-0674-013

DATE: June 6, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 2, 2016, fatal shooting of William Bowers by Los Angeles County Sheriff's Department (LASD) Deputy Jeffrey Brito. We have determined there is insufficient evidence to prove beyond a reasonable doubt that Brito's shooting of Bowers was unlawful.

The District Attorney's Command Center was notified of this shooting on August 2, 2016, at approximately 10:58 p.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by LASD Sergeant Marc Boskovich and Detective Louie Aguilera. The reports include photographs, videos, audio-recorded interviews of witnesses, and radio transmissions. The voluntary statement of Deputy Jeffrey Brito was considered in this analysis.

FACTUAL ANALYSIS

On August 2, 2016, at approximately 9:00 p.m., Brito and Deputy Casey Hefler responded, in a marked patrol car, to a report of a vehicle theft at the Rodeway Inn in the City of Castaic.[1] Bowers, who was seated on a mountain bike and speaking with [redacted] on the west walkway of the Inn, rode towards the southwest corner of the building as Brito drove eastbound into the south parking lot of the Inn.[2] Brito and Hefler immediately recognized Bowers from previous contacts.[3] As the deputies drove towards Bowers, he began pedaling eastbound towards the rear

[1] The deputies were in full LASD uniform and the patrol car had an attached light bar on the roof and a spotlight.
[2] The Rodeway Inn is a two-story motel with rooms on both levels. A driveway encircles the property, with numerous parking spaces for motel guests.
[3] Brito and Hefler had several contacts with Bowers, and neither had experienced any problems with him in the past. On May 18, 2016, Brito and another deputy arrested Bowers for possession of stolen property. Brito believed he had a rapport with Bowers, who he knew as a drug dealer in the area. Bowers had always been cooperative, and had never fled or caused any disturbances. Brito was aware of one incident in which Bowers tossed narcotics and fled when other deputies approached him during a narcotics investigation.

of the Inn, away from the deputies. Brito yelled to Bowers, asking him if he would stop and speak with the deputies. Bowers continued pedaling away from the deputies and ignored them.



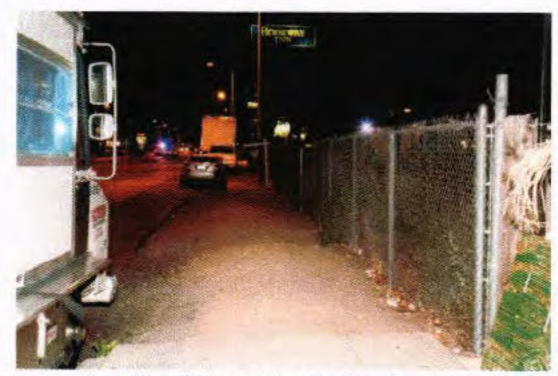
Rodeway Inn, 31558 Castaic Road

With their lights and sirens activated, the deputies continued following Bowers, who attempted to flee from them by sharply turning left and riding down an inner walkway between two buildings. To catch up with him, the deputies drove around the exterior of the buildings to the north driveway of the property, and eventually spotted Bowers riding westbound, a short distance ahead. With the deputies in pursuit, Bowers rode to the east sidewalk of Castaic Road, and then travelled southbound. The deputies lost sight of Bowers as he continued riding on the dirt shoulder, between parked vehicles and a chain-link fence bordering an empty lot south of the Rodeway Inn.[4]

As Bowers rode past a taco truck parked at the east curb of Castaic Road, he abandoned his bike and doubled back northbound on the sidewalk.[5] When the deputies reached the taco truck, they saw the bike, but did not see any signs of Bowers. Brito stopped the patrol car and the deputies exited to search for Bowers. Customers of the taco truck alerted Hefler of Bowers' location, and Hefler began to follow him northbound on the dirt sidewalk shoulder, while Brito drove the patrol car northbound to cut him off.



Bowers' Bike near the taco truck on Castaic Road



East Shoulder on Castaic Road

[4] Immediately south of the Rodeway Inn, the paved sidewalk ends and there is a dirt shoulder, until the pavement resumes further south.

[5] The bike was laying in front of [redacted] located at [redacted]astaic Road.

As Brito drove northbound, he was able to peer below a box truck and see legs walking northbound. Assuming it was Bowers, Brito parked at an angle at the front of the truck. Brito exited the patrol car, drew his weapon, and positioned himself between the trunk of the patrol car and the front bumper of the truck cab, believing he was concealed from Bowers' view. Brito then began to walk towards the sidewalk, attempting to make visual contact with Bowers.

Bowers continued walking northbound, closing the distance between him and Brito. Bowers' hands were near his front waistband, and Brito told him to stop and show his hands. Continuing to walk towards Brito, Bowers moved his hands, which were closed and appeared to be holding an object, upwards towards his chest. Fearing that Bowers was holding a handgun and was going to shoot him, Brito fired one round at Bowers.[6]

Bowers fell to the ground, and Brito and Hefler held him at gunpoint until additional deputies arrived. Deputies Joel Anzures and Brito searched Bowers and took him into custody. No weapon was found on or near Bowers.



Scene of the OIS



Scene of the OIS

Los Angeles County Fire Department Paramedics rendered medical treatment and pronounced Bowers dead at 9:19 p.m.

On August 5, 2016, Deputy Medical Examiner Vadims Poukens performed a postmortem examination of Bowers and determined that he suffered one gunshot wound. The wound was located on the left side of his chest, left of the nipple. Bowers' toxicological examination showed a level of methamphetamine in the blood specimens.

Statement of Deputy Jeffrey Brito[7]

On August 2, 2016, Brito and his partner, Hefler, [redacted] at the Rodeway Inn. Brito drove into the south driveway from Castaic Road, and recognized Bowers as he rode his bike. Bowers initially rode southbound, and then westbound towards the deputies when they entered the driveway. As the deputies drove eastbound towards Bowers, he turned

[6] The officer involved shooting (OIS) occurred on the dirt shoulder on the east side of Castaic Road, just south of the Rodeway Inn. There was a properly functioning street light above the location of the OIS, and the area was well illuminated. A post-incident examination revealed that Brito's departmentally issued Smith and Wesson 9mm service weapon was loaded with one round in the chamber and 16 rounds in the magazine. Brito's service weapon was normally loaded with one round in the chamber and 17 in the magazine; this is consistent with Brito having fired one round during the OIS.

[7] Brito was originally scheduled to be interviewed on August 3, 2016, but requested that the interview be re-scheduled to allow him to rest. Brito reviewed the surveillance video of the incident prior to the interview.

and began pedaling away from them. As Bowers pedaled away, Brito drove the patrol car to the right of Bowers and yelled, "Hey Bill, can we talk to you?" Bowers immediately looked over his right shoulder towards the patrol car and yelled, "Fuck you! Fuck you! Fuck you!" Bowers began pedaling faster, and tossed a small object from his right hand, towards his right side.

Believing that Bowers was trying to discard narcotics evidence, Brito decided to conduct a narcotics investigation and again yelled out for Bowers to stop. Bowers ignored the commands and tossed another object from his right hand. Bowers continued pedaling towards the rear parking lot, located on the east side of the property, then quickly turned left to ride between two buildings, before colliding with an unknown object. Brito stopped the patrol car, put it in park and began to exit the car, however, Bowers regained his balance and pedaled northbound between the buildings.[8] Brito drove around the exterior parking lot to the north side of the building, and saw Bowers a short distance ahead on the north driveway. Brito accelerated the patrol car, again yelled for Bowers to stop, and activated the red lights and sirens of the patrol car when Bowers ignored the command. Bowers pedaled westbound in the driveway towards the exit of the Rodeway Inn on Castaic Road, and as the deputies came within 15-20 feet of him, turned southbound on the east sidewalk.

Bowers continued to pedal southbound, traveling on a dirt sidewalk. Vehicles were parked along the east curb line, but Brito attempted to stay parallel with, and as close to Bowers as possible, by driving southbound in the northbound lane of traffic. When Bowers reached the property to the south of the Rodeway Inn, he tossed another object over the chain-link fence separating the property and the dirt sidewalk.[9] The patrol car's lights and sirens remained activated, and Brito triggered the air horn as well. Brito had trouble seeing Bowers' exact position because the vehicles parked along the east curb line obstructed his view. Brito continued driving southbound in the northbound lanes, and then saw Bowers' bike collide with a light pole near a mobile taco truck and fall to the ground. Bowers was no longer riding the bike, and Brito was unsure if he had jumped off the bike prior to the collision, or had fallen off and fled after the collision.

The deputies decided to investigate the bag that was hanging from a handlebar of Bowers' bike, and Brito made a U-turn.[10] As the deputies exited the patrol car, people standing on the sidewalk near the taco truck pointed northbound, directing the deputies back in the direction from which Bowers had previously come. Hefler started walking northbound on the sidewalk, and Brito returned to the patrol car.[11] Brito drove northbound, parallel to Hefler, in search of Bowers. Brito was unable to see Bowers, and continued driving northbound until he reached a box truck parked at the curb, just south of the Rodeway Inn. Brito peered under the cargo section and saw legs walking northbound. Assuming the legs belonged to Bowers, Brito drove the patrol car to the front of the truck, and parked at an angle, which he believed would conceal his position from Bowers' view.[12]

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[8] Brito described Bowers as being "amped up" and possibly under the influence of narcotics from the beginning of the encounter.

[9] Based upon the information presented in the investigation, it is unclear whether the area on the east side of the chain-link fence was searched for evidence.

[10] The bag contained a razor, and bottles of body wash, shampoo and conditioner.

[11] Brito returned to the patrol car because he had left the keys in the ignition, the driver's door open, and the car engine running.

[12] Hefler never communicated to Brito that he had seen Bowers ahead of him.

Brito exited, drew his service weapon, and walked to the rear of the patrol car.[13] Positioning himself between the trunk and the front bumper of the truck cab, he used the area to conceal himself from Bowers.[14] Brito then began to walk at an angle, offset from the bumper, towards the dirt sidewalk, attempting to gain a visual of Bowers. Brito saw Bowers walking northbound towards him, and initially could only see his upper torso. As Bowers moved closer, Brito was able to see Bowers' hands were down near his front waistband. Brito's service weapon, with the tactical light activated, was pointed at Bowers. Brito said, "Bill, stop. Let me see your hands." Bowers ignored the commands, and continued walking northbound. Brito slightly shifted his position, and saw Bowers' hands moved upwards together, towards his chest, as he continued to walk towards Brito.[15] Bowers' hands were closed, and appeared to be holding an object. Brito immediately became frightened that Bowers was holding a handgun and was going to shoot him.[16] Fearing that he would be shot and killed, Brito fired one round at Bowers.[17] Brito took a couple of steps backwards, as Bowers fell to the ground. Brito radioed that he had been involved in an OIS and needed medical assistance for Bowers.

Statement of Casey Hefler

On August 2, 2016, Hefler and his partner, Brito, [redacted] at the Rodeway Inn. Brito drove into the south driveway, and saw Bowers on a bike, riding away from the deputies. Hefler immediately recognized Bowers as a known narcotics seller, who was on probation and had search and seizure probationary conditions. The deputies decided to contact him, and Brito shined his spotlight on Bowers and said, "Hey Bill, come talk to us."[18] Bowers turned to look at the deputies, threw his hands up in the air as if he was irritated, and started pedaling away from them. Brito activated the patrol car's red and blue lights, and continued to follow Bowers as the deputies repeatedly told him to stop.

Bowers sped off northbound between two buildings, and the deputies continued driving around the exterior of the buildings. The deputies caught up with Bowers in the north driveway, and continued following him as he exited the parking area and rode southbound on the east sidewalk of Castaic Road. Once Bowers reached the property immediately south of the Rodeway Inn, the deputies lost sight of him because he was obscured by the vehicles parked along the east curb line. Brito turned off the sirens, and the deputies drove approximately 50 yards southbound on Castaic towards a parked taco truck, looking for Bowers. When they neared the taco truck, Bowers was no longer present, but his bike was laying on the sidewalk.

Brito stopped the patrol car and both deputies exited. Brito walked to the front of the car and maintained a position to see whether Bowers cut between the cars parked at the east curb line and crossed the street. Hefler began to look for Bowers in the bushes and between the nearby buildings, but did not see him. Hefler looked northbound up the sidewalk, and saw Bowers

[13] Brito was unsure of the exact moment when he drew his service weapon, but knew it occurred after exiting the patrol car.
[14] Brito did not think Bowers would be able to see him over the front of the truck.
[15] Brito was unsure if he shifted to the left or the right.
[16] Brito said that Bowers moving his closed hands upwards towards his chest was consistent with him holding a handgun.
[17] Brito was still standing at an angle towards Bowers, and was unsure if Bowers had turned to face him squarely immediately prior to the round being fired. Brito was also unable to describe the distance between himself and Bowers at the time of the OIS.
[18] Hefler had contacted Bowers on three or four previous occasions, and said he and Brito were usually able to gain Bowers' attention by calling out to him.

walking up the sidewalk away from the bike. Bowers was walking slowly and looking around, approximately 50 to 70 feet away from Hefler.[19] Hefler alerted Brito to Bowers' location, and Brito returned to the patrol car. Hefler walked northbound on the sidewalk, while Brito drove northbound. Brito stopped near a large truck, and parked along the curb, as if to intercept Bowers. Hefler was approximately 30 to 40 feet behind Bowers, whose hands were in front of his body, near his waistline area. Hefler could not see what Bowers was doing with his hands, and then heard a single gunshot. Bowers fell to the ground and Hefler drew his service weapon. Hefler and Brito held Bowers at gunpoint and waited for other units to arrive.[20] Once additional deputies arrived, Bowers was taken into custody.

Statements of Civilian Witnesses

Statement o[redacted]

[redacted]was working at [redacted]when he heard a siren. He looked out the store window and saw the deputies driving southbound in the northbound lane of Castaic Road.[21] Bowers was riding southbound on a bicycle, on the dirt sidewalk on the east side of the road.[22] He appeared to be running away from the deputies because he was standing up and pedaling hard. [redacted] lost sight of Bowers behind the vehicles parked at the east curb of Castaic, until he threw his bike down near the taco truck. The deputies stopped behind the taco truck and attempted to make a U-turn, as Bowers ran back northbound on the dirt sidewalk.[23] [redacted] believed Bowers was trying to get away and "trick" the deputies by abruptly changing his direction of travel, making it harder for the deputies to follow.

Brito drove northbound, and stopped between the driveway of the Rodeway Inn and the front of a truck. Brito exited the car, walked to the rear, and drew his handgun. Bowers was hiding behind the right front wheel of the box truck, but [redacted] could only see his feet. Bowers "popped out" and the deputy shot him, causing Bowers to fall onto his knees and backwards. When Bowers "popped out," his arms were bent at the elbows, and his hands were slightly in front of his waist. Due to his position inside the store, [redacted]could not hear Brito say anything, but believed that Bowers startled Brito when he "popped" out.

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[19] Hefler did not issue commands to Bowers at that time, because he believed Bowers was too far away to hear the commands over the noise of the traffic. Hefler could see one of Bowers hands out to the side, and believed the other hand was near his waist. According to Hefler, he could not see specific details about Bowers' hands or whether he was carrying anything because the height of the truck was blocking the streetlights from illuminating the area.

[20] Hefler could hear Brito ordering Bowers to keep his hands in sight, but Hefler had difficulty hearing anything over the noise of the traffic and the truck's engine.

[21] [redacted]was located at[redacted]Castaic Road, directly across the street from the OIS. The [redacted]s in a small strip mall with a parking area in front of the store's windows. A sidewalk and curb run along Castaic Road, separating the road from the parking area. According to a handwritten diagram of the scene, submitted with the investigation, the approximate distance from the front of the store to the location of the OIS was 162 feet. [redacted]was behind the counter on the north side of the store. He was initially sitting down, but stood up when he heard the sirens. He had a clear view of the area across the street, and could see into the area between where Brito's patrol car was stopped and the front of the box truck.

[22] [redacted]. recognized Bowers as a regular customer of the store.

[23] [redacted]. did not see Hefler exit the patrol car, and believed there was only one deputy in the car.

Statement of [redacted]

[redacted] was driving southbound at approximately 20 to 25 miles per hour on Castaic Road when he saw Brito drive his patrol car northbound with its lights activated. [redacted] began to slow down to see what was happening, and saw Brito stop next to a box truck parked along the east curb line.[24] Brito exited the car, immediately drew his service weapon, and walked to the driver's side rear bumper. [redacted] aw Bowers appear from behind the box truck, running with his arms pumping at his sides. [redacted] momentarily lost sight of Bowers, because the roof of the patrol car blocked his view. Brito yelled at Bowers to get on the ground, and then immediately fired one round from approximately ten feet away. [redacted] was unable to see what Bowers had done, if anything, with his hands as the round was fired because his line of sight was obscured by the roofline and lightbar of the patrol car. [redacted] slowed down to see if Bowers had a weapon, and saw Bowers on the ground, grabbing his chest and stomach. He did not see a weapon, and drove away.

Additional Civilian Witnesses

[redacted] were inside the box truck next to the location of the OIS. The truck engine was running, the air conditioning was turned on, and the door windows were rolled up. [redacted] was in the driver's seat and awake, with the curtains to the windshield and door windows closed. He heard a "bang" and then sirens, but did not see the OIS.

[redacted] was asleep in the sleeper portion of the truck cab at the time of the OIS and did not see or hear anything. He was awakened by a "popping" sound but did not observe the OIS.

Witnesses on the east sidewalk of Castaic Road near the taco truck also observed various portions of the incident, but did not see the OIS.

Multiple witnesses were at the Rodeway Inn, standing on the second-floor exterior walkway/balcony. These witnesses were facing southbound and westbound. They observed various portions of the incident, prior to and after the OIS, but were unable to see the actions of Bowers immediately before or at the time of the shooting. A walk-through of the southwest-facing balcony areas was conducted by members of the District Attorney's Response Team to determine the location of these witnesses and their ability to observe the OIS. It was discovered that a large stucco enclosure and a large tree on the southwest corner of the Inn obstructed the sightline of individuals standing on the balconies, and would have prevented them from seeing Bowers' movement while he was near the front right tire and bumper of the box truck.

Video Evidence

Mike's Diner

Surveillance video from the exterior of Mike's Diner, located across the street from the taco truck, showed a small portion of the rear of the taco truck. Bowers can be seen riding southbound on the east sidewalk of Castaic Road near a light pole located south of the taco truck.

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[24] The patrol car's siren was not activated. [redacted] estimated he slowed his car to approximately five miles per hour while watching the incident unfold. [redacted] marked the location and direction from where he witnessed the OIS on an aerial photograph of the scene taken by a news station. According to [redacted], he was in the number one southbound lane, approximately one car length north of Brito's patrol car.

It cannot be determined whether Bowers collided with the light pole, or intentionally stopped riding near the light pole, but he falls to the ground, and then immediately begins walking northbound along the sidewalk, abandoning his bicycle. Simultaneously, the deputies patrol car is seen driving southbound with its overhead lightbar activated. The patrol car stops, turns around near the bicycle, and both deputies exit. Brito remains at the driver's door, returns inside and drives northbound, out of view.

Rodeway Inn

Multi-camera surveillance video from the Rodeway Inn recorded portions of the events. There is no audio on the video. In the video, Bowers is seen seated on a bicycle, speaking with [redacted] on the west walkway area of the Inn, adjacent to the rooms which open to the westside driveway area. As [redacted] begins to walk southbound along the walkway, Bowers rides his bike into the west parking area, towards the southwest corner of the Inn. Bowers rides eastbound as a marked patrol car enters the south driveway. Bowers rides away eastbound as the deputies follow him in the south driveway. The driver's spotlight on the patrol car is activated and pointed at Bowers. Bowers turns left and rides down an inner walkway between two buildings, exiting onto the north side driveway. Bowers rides westbound, with the patrol car in pursuit. The patrol car's lightbar is activated as it drives westbound. Bowers can then be seen riding his bicycle southbound on Castaic Road and onto the east dirt sidewalk walkway, and the patrol car, with the lightbar on the roof still activated, following closely behind. The patrol car continues driving southbound on Castaic Road, out of view. Approximately one minute later, the patrol car drives northbound, and stops at an angle in front of a box truck. Brito exits the driver's door and walks to the rear of the patrol car. Bowers walks northbound towards the front wheel and bumper area of the box truck. Simultaneously, Brito walks eastbound towards the curb line with his arms extended in front of him, and fires one round. Bowers falls to the ground.

Due to the lighting, video quality, and distance between the camera and the location of the OIS, the position and movement of Bowers' hands cannot be observed. Additionally, a portion of Bowers' movement, as he walks northbound towards the front wheel and bumper of the box truck, is obscured by a large tree, which is adjacent to the chain-link fence.

Magnified Still Images of the Rodeway Inn Video

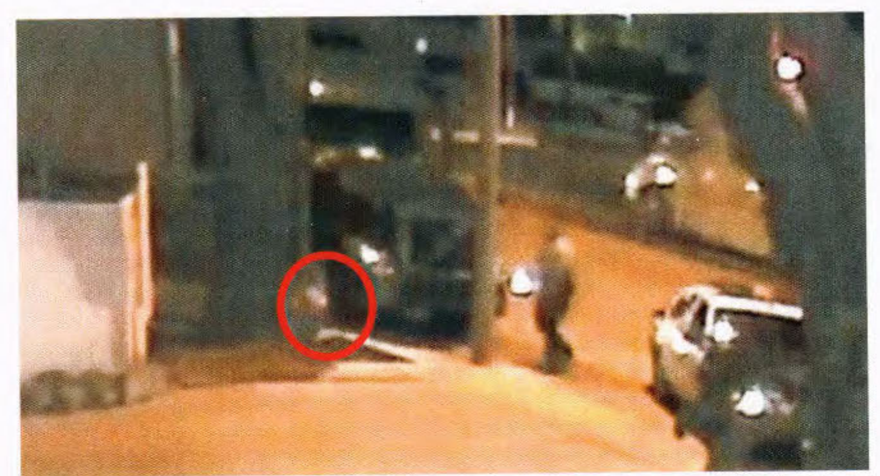
Magnified still images of the Rodeway Inn video depict Bowers and Brito at the time of the OIS. A review of the images shows Bowers walking northbound on the sidewalk next to the box truck. As he approaches the front of the box truck, his entire body is obscured by a large tree. Brito can be seen walking around the rear of his patrol car towards Bowers. Brito is pointing his service weapon at Bowers, who is still completely concealed behind the tree. The next point at which Bowers can be seen, he is falling to the ground. Bowers hands and other movements cannot be seen while he is concealed behind the tree.



Bowers immediately prior to walking between the box truck and the tree.



Brito at the rear of the patrol car while Bowers is still behind the tree.



Bowers falling to the ground.

LEGAL ANALYSIS

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333.

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." Id. at 1146; *quoting* People v. Bond (1910) 13 Cal.App. 175, 189-190.

It is the prosecution which has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507. Thus, to bring a murder charge against a defendant in the face of a claim of self-defense, the prosecution must be able to prove beyond a reasonable doubt that the killer did not actually believe that the decedent posed an imminent threat when the defendant killed him. To bring a charge of voluntary manslaughter, the prosecution must be able to prove beyond a reasonable doubt that the killer's belief in the need for self-defense, though honest, was not objectively reasonable at the time of the killing.

California law permits any person, including police officers, to use deadly force in self-defense or in the defense of others, and, if someone dies as a result, this is a "lawful excuse" which precludes a conviction for murder. Penal Code sections 197, 198; CALCRIM No. 505. This defense is available if the killer actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *see also* People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 505, 3470. Actual danger is not necessary to justify the use of deadly force in self-defense; if the person's beliefs were reasonable, the danger does not need to have actually existed. CALCRIM No. 505, 3470. The prosecution has the burden of proving beyond a reasonable doubt that the killer did not act in self-defense. Id. "Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not

be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight....The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined in this investigation shows that on August 2, 2016, at approximately 9:00 p.m., Brito and Hefler, while in full uniform and in a marked patrol car, responded to a report of a vehicle theft at the Rodeway Inn in the City of Castaic. As Brito drove into the south parking lot of the Inn, he and Hefler saw Bowers on a bicycle. The deputies immediately recognized Bowers from previous contacts. Brito knew Bowers as a narcotics dealer, had arrested him in the past for possession of stolen property, and was aware that Bowers had fled during a prior narcotics investigation conducted by other deputies. Brito described Bowers as cooperative during his prior contacts with him, and believed they had a rapport. However, unlike during previous contacts, Bowers immediately began to flee from the deputies as they approached him, and refused to stop when asked by the deputies to do so. Brito alleged that he saw Bowers toss what he believed to be narcotics towards his right side, while Hefler described him as throwing his hands up in the air out of irritation. Based on his observations, Brito began conducting a narcotics investigation.

With their lights and sirens activated, the deputies followed Bowers, who attempted to evade them by cutting through the property, leaving the deputies to circle around the exterior driveway to locate him. Bowers exited the Rodeway Inn, and rode southbound down Castaic Road while still being pursued by the deputies. Despite losing sight of Bowers, who had ridden southbound along the east dirt sidewalk, the deputies continued to track him. As Bowers abandoned his bicycle near a taco truck, and walked back northbound, the deputies split up and began to pursue him on foot and in the patrol car.

Hefler followed him northbound on the dirt sidewalk, while Brito drove the patrol car northbound to cut him off. Observing legs walking northbound beneath a box truck parked at the east curb, Brito correctly assumed it was Bowers, and attempted to intercept him by parking in front of the truck. Brito exited his patrol car, drew his service weapon, walked to the rear of the patrol car, and then towards the sidewalk. As Bowers walked northbound, and came into Brito's view, Brito initially saw Bowers hands near his front waistband. Bowers continued to close the distance between them, and Brito told him to stop and show his hands. Upon seeing that Bowers' hands were closed, Brito believed he was holding an object. Brito stated that Bowers moved his hands upwards towards his chest, contrary to Brito's orders and causing Brito to believe that Bowers was holding a handgun, and was going to shoot him. In fear of death or great bodily injury, Brito fired his service weapon at Bowers.

[redacted] and Hefler said that Bowers' hands were in front of his body, near his waistline, which corroborates Brito's descriptions of Bowers' hands. Brito further indicated that Bowers refused to stop and show his hands, when ordered to do so by Brito. Rather, Bowers continued

walking towards Brito. Brito eventually saw Bowers holding what was initially an unknown object, but as the distance closed between the two, Bowers moved his hands upwards towards his chest, and Brito thought he was holding a firearm. No evidence suggests that Brito fired his service weapon for a reason other than an actual and honest belief that he was in imminent danger at the time he fired. Since Brito actually believed that Bowers was armed with a handgun, and presented a deadly threat, there is insufficient evidence to support a charge of murder.

The question of whether Brito's belief in the need for self-defense was objectively reasonable under the circumstances requires further analysis. Brito was conducting a narcotics investigation on Bowers, with whom he had previous contacts. Bowers had been cooperative during the previous contacts, which could have reasonably lead Brito to believe that Bowers was going to be cooperative during this incident. However, Bowers behavior was completely inconsistent from prior contacts. As shown in the surveillance video, Bowers disobeyed commands to stop, and fled immediately upon seeing the officers. He continued to attempt to elude the officers by reversing his path of travel. For an unknown reason, Bowers was not acting like the compliant individual that Brito had previously encountered. Bowers' failure to comply with the deputies' orders would have reasonably increased Brito's suspicions about Bower's intentions.

As Brito approached Bowers while holding him at gunpoint, [redacted] and Hefler provided corroborating statements that Bowers' hands were initially in front of his body, at waist level. While there is no video recording or additional objective evidence that definitively show the incident at the time Brito fired his service weapon, there is insufficient evidence to prove beyond a reasonable doubt that his belief in the need for self-defense was not objectively unreasonable.

Based upon a review of all the available evidence, we find that there is insufficient evidence to prove beyond a reasonable doubt that Deputy Brito used unreasonable force when he shot William Bowers. We are closing our file and will take no further action in this matter.